IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 2325 of 2007(B)

PETITIONER:

M/S.MATHER PROJECTS,
ADMINISTRATIVE OFFICE AT KODIYATT CHAMBERS,
RAJAJI ROAD, COCHIN- 682035,
REPRESENTED BY ITS MANAGING PARTNER,
K.I.MOHAMED RAFFI MATHER.

BY ADV. SRI.K.I.MAYANKUTTY MATHER

RESPONDENTS:
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1. TAHSILDAR, KANAYANNUR TALUK,
ERNAKULAM.

2. RAVIKUMAR, SREEPADAM,
KARULLIL HOUSE, IRUMPANAM- 682309.

3. K.C.CHACKO, KANNATH HOUSE,
PERUMANNOOR DESOM, THEVERA, KOCHI-13.

4. BINOY MATHEW, APARTMENT NO.1C,
WHITE WATERS, THEVERA, KOCHI.

5. P.J.CHERIAN,
ZUBAIR GENERAL TRADING, P.O.BOX 60808,
DUBAI.

6. ROMAL JAYACHANDRAN,
P.O.BOX NO.6472, DOHA,QATAR.

7. JAYAKUMAR VERMA,
P.O.BOX NO.41807,
ABUDHABI, U.A.E.

8. NEENA ANTONY,
P.B.NO.O8703, AL-RAJA POLY CLINIC, DUBAI.

9. A.K.MOHAMMAD,
PREMIER TOOLS AND HARDWARE MART,
P.B.NO.3266, KOCHI.

10. SEBASTIAN JOSEPH,
APARTMENT NO.2C, WHITE WATERS, THEVARA, KOCHI.

11. K.C.CYRIAC, 114 KHATARI BAGH,
NAVAL BASE P.O., KOCHI-4.

12. E.M.NAJEEB,
AIR TRAVEL ENTERPRISES INTERNATIONAL LTD.,
NEW CORPORATION BUILDING, TRIVANDRUM.

13. PAUL PRAVEEN WILSON,
HOFDIJK 493417, XE MONTFORT NETHERLANDS.

14. RADHAKRILSHNAN,
APARTMENT NO.3C, WHITE WATERS, KOCHI.

15. MR.MATHEWS MATHEW,
P.B.NO.2168, 1180 ED, AMSTELVEEN,
NETHERLANDS.

16. JOSEPH EDATTLE,
GRUEZEN STR- 56,8600, DUBENDORF, SWITZERLAND.

17. K.S.VIJAYACHANDRAN,
P.B.NO.9381, AHMADI, KUWAIT.

18. R.J.ROY,
APARTMENT NO.4B, WHITE WATERS, KOCHI.

19. SUNNY THOMAS,
APARTMENT NO.4C, WHITE WATERS, KOCHI.

20. P.X.JOSEPH,
APARTMENT NO.4D, WHITE WATERS KOCHI.

21. THANKACHAN THOMAS,
APARTMENT NO.4F WHITE WATERS, KOCHI.

22. SUNIL JOSEPH,
APARTMENT NO.5A, WHITEWATERS KOCHI.

23. PONNOOSE MATHEW,
P.B.NO.239, UMM-AL-QUIWAN, U.A.E.

24. ABBAS ALI MOHAMMAD,
P.B.NO.31675, ABUDHABI, U.A.E.

25. M.V.SASIDHARAN, P.B.NO.3366, DUBAI.

26. C.M.SAGEER,
P.B.NO.25913, SHARJAH, U.A.E.

27. ANAS KARUVALLY,
P.B.NO.6302, DUBAI.

28. ZIAUDIN,
P.B.NO.5815 ABQAIQ, ARAMCO, SAUDI.

29. MERCY ALEXANDER,
CALSERSTONES, WESTELLA ROAD,
WESTELLA, HULL, HU 10, 7SD.

30. HARIS IBRAHIM,
CITY PETROLS, WEST HILL, CALICUT.

31. M.J.LOUIS,
JOSE ELECTRICALS, 8/8A,9/9A, P.T.USHA ROAD,
KOCHI-11.

32. MR.G.HARIKRISHNAN,
P.B.NO.412, BEHRAIN.

33. NOUSHEEN RASHID,
C/O.ABDUL AZIZ SAIT, YESRUB,
CHERUPARAMBATH ROAD, ERNAKULAM.

34. SHALEEN AZIZ,
C/O.ABDUL AZIZ SAIT, YESRUB,
CHERUPARAMBATH ROAD, ERNAKULAM.

35. STANLY MATHEW,
P.B.NO.33098, DUBAI, UAE.

36. SHEELA PRINCE,
APARTMENT NO.51/A RIVIERA RETREAT,
THEVERA, KOCHI.

37. SURESH BABU,
P.B.NO.52172, DUBAI.

38. MOIDEEN PADIYATH,
P.B.NO.4411, CENTUARY AUTO, PARTS,
DEIRA, DUBAI.

39. SOYA MEERAN,
APARTMENT NO.8 A, WHITE WATERS, KOCHI.

40. N.V.POULOSE,
P.B.NO.591, UMM-AL QUWAIN, UAE.

41. ABDUL RAHIM ISMAIL,
NATIONAL COMMERCIAL BANK,
21ST FLOOR, P.B.NO.20566, JEDDAH.

42. P.K.GOPAKUMAR,
A/404, BIRCHWOOD, POWAI, MUMBAI-400076.

43. JACOB T.ALEX,
PB NO.26936, DUBAI, UAE.

44. ALATHAF ISMAIL,
14/1570, CHULLICKAL, KOCHI-5.

45. LAILA JACOB, CA 74, 7TH FLOOR,
RIVIERA RETEREAT, THEVERA, KOCHI.

46. D.K.SUMANGALAN,
O.P.Q.L. PB NO.22611, DOHA, QATAR.

47. CDR.MATHEW,
G 255, 2ND FLOOR, PANAMPILLY NAGAR,
KOCHI-36.

48. RAVINDRAN K.KOROTH,
601, LANSDOWNE WAY, T2 NORWOOD,
MA 02062, USA.

49. MOHAN DAS,
PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT,
TRIVANDRUM.

50. MOHAMMAD FIROZ KHAN,
P.B.NO.3367, AJMAN, UAE.

51. ANTONY JOB,
INDIAN EMPORIUM, 2/77 CLAVETTY ROAD,
KOCHI-01.

52. P.K.M.BASHEER,
P.B.NO.1721, SAFAT 13018,
KUWAIT.

53. S.G.NAIR,
EDEN BUNGLOWS, HIRANANDANI GARDENS,
AS ROAD, POWAI, MUMBAI.

54. ABDUL AZIZ MATHER,
8, MEADOW BANK, WATFORDHERTS,
WD 194 NP, UK.

55. C.M.BASHEER,
P.B.NO.601, UMM-AL QUIWAN, UAE.

56. ANWAR SAIT,
ADNAN 14/4 A, CHULLICKAL, KOCHI-05.

57. P.K.R.MENON,
BADRALAYAM, SANSKRIT COLLEGE ROAD, TRIPUNITHURA.

58. ASHOK PILLAI,
P.B.NO.33098, DUBAI, UAE.

59. AZEEM A.SAIT,
J-3, JAWAHAR NAGAR, TRIVANDRUM-695041.

60. FAHEEM ABOOBACKER SAIT,
J-3, JAWAHAR NAGAR, TRIVANDRUM-695041.

61. K.RAMACHANDRAN,
C/O.EVEREADY BATTERIES LTD.,
P.B.NO.9231, DUBAI, UAE.

62. DIVYA THOMAS,
APARTMENT NO.12A, WHITE WATERS,
THEVARA P.O., KOCHI.

63. REJITH PAUL,
APARTMENT NO.12 D, WHITE WATERS,
THEVERA KOCHI.

64. SATHI DEVI KANDOTH,
P.B.NO.22669, SHARJAH, DUBAI.

65. LEKHA VISWANATH,
CHITHIRA HOUSE, MAVELIKKARA,
ALLEPPEY- 690107.

66. GEORGE M.GEORGE,
PENT HOUSE 13-14 A, WHITE WATERS,
THEVERA P.O., KOCHI.

67. RAZHA KHAN,
P.B.NO.7349, DOHA, QATAR.

68. ANTONY K.DEVASSY,
13405 OAKWOOD, CT, HOMERGLEN, II60491.

69. MADHAVAN,
PENT HOUSE 13-14 D, WHITE WATERS,
THEVERA, KOCHI.

70. PETER POULOSE VALETH,
3RD FLOOR, VACHAMANARE, NO.27,
KASTHURBA NAGAR, CHENNAI.

71. SUSEELA NAMBIAR,
202, KRISHNA KUNJ, GOKULAM,
FILM CITY ROAD, MUMBAI.

BY ADV. SRI.BEPIN VIJAYAN
SMT.S.LAKSHMY
GOVERNMENT PLEADER SRI. MUHAMMED RAFFI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 2325/2007 B

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF ONE AGREEMENT FOR SALE OF UNDIVIDED INTEREST IN THE LAND AND FOR CONSTRUCTION OF APARTMENTS DT. 8/9/04.

EXT.P2. COPY OF THE ABLE CONTAINING THE PARTICULARS OF NAMES OF THE ALLOTEES, AREASOF THE FLATS AND THE PARTICULARS OF THE PAYMENTS.

EXT.P3. COPY OF THE SALE DEED EVIDENCING THE ASSIGNMENT OF PROPORTIONATE UNDIVIDED INTEREST IN THE LAND 29/11/2005.

EXT.P4. COPY OF THE PROPERTY TAX RECEIPT IN RESPECT OF THE APRTMENT DT. 19/6/06.

EXT.P5. COPY OF THE MEMO ISSUED BY THE CORPORATION REGARDING CHANGE OF REGISTRY DT. 21/6/2006.

EXT.P6. COPY OF THE PROCEEDINGS OF THE R1 DT. 30/10/2006.

EXT.P6A. COPY OF THE ASSESSMENT ORDER IN FROM NO. 5 DT. 30/10/2006.

EXT.P6B. COPY OF THE DEMAND NOTICE IN FORM NO. 6 DT. 30/10/2006.

EXT.P7. COPY OF THE CHEQUE EVIDENCING THE REMITTANCE OF RS. 3,55,882/- DT. 30/11/2006.

EXT.P7A. COPY OF THE CHEQUE EVIDENCING THE REMITTANCE OF RS. 1,49,768/- DT. 30/11/2006.

EXT.P8. COPY OF THE GOVERNMENT LETTER DT. 28/4/92.

EXT.P9. COPY OF THE GOVT. LETTER DT. 28/4/92.

EXT.P10. COPY OF THE RETURN SUBMITTED BY AN ALLOTTEE.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C).No.2325 of 2007-B

Dated this the 8th day of March, 2007

JUDGMENT

The petitioner challenges Exts.P6 (a) assessment order under the Kerala Building Tax Act and Ext.P6 (b) demand notice issued pursuant to it. Against those orders, the petitioner has got a right of appeal before the appellate authority. It may invoke the same. The period this writ petition was pending before this Court shall be excluded while computing the period of limitation in filing the appeal. It is ordered that the appellate authority while deciding the appeal will not be guided or influenced by Ext.P8 or Ext.P9. The Government have no power to issue any direction to the appellate authority which is discharging a quasi-judicial function. The appellate authority shall go only by the materials placed and the submissions made before it.

2. The building tax will ultimately be a charge on the building constructed. So, the ultimate owner will be liable to pay the same if others neglect to pay it. But, in the case of buildings of this nature, the liability to pay tax depend upon the terms of the contract entered into between the parties. The individual flat owners are definitely interested persons. So,they shall also be heard by the appellate authority before final orders are passed. The interim order granted by

this Court will remain in force for a further period of one month from today.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS